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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,869	12/31/2003	Robert Edward Gamble	24AT-135859	6292

7590 02/16/2006

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EXAMINER

PALABRICA, RICARDO J

ART UNIT PAPER NUMBER

3663

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/749,869	Applicant(s) GAMBLE ET AL.	
	Examiner Rick Palabrica	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-19 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) 13-16, 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-12, 17-19, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's 1/9/06 Amendment, which canceled claim 24 and traversed the art rejection of the claims in the 9/9/05 Office action, is acknowledged.
2. Applicant traversed applied prior art, Turrichia and Latter et al., on the ground that neither one of them describe or suggest the assembly in claim 9 or the nuclear reactor in claim 17. The examiner agrees with the applicant on Turrichia but not on Latter et al. Accordingly, the rejection of the claims in section 4 of the 9/9/05 Office with respect to Latter et al. remains.

Applicant argues that, contrary to the claimed invention that discloses an assembly comprising a base grid and an annular base grid shield wall, Latter et al. "describe an isolation conduit extending downward from the floor of the containment vessel." The examiner disagrees.

First, the examiner notes that both Latter et al. and the claimed invention are in the same field of endeavor, i.e., core catcher to prevent the escape of radiation in the unlikely event of a reactor core meltdown. See Abstract of Latter et al. and paragraph 0003 of Applicant's specification.

Second, applicant's argument equates Latter et al.'s isolation conduit with the claimed base grid and annular base grid shield wall, which is not the case. Applicant's traverse of Latter et al. is based on his artificially-constructed "strawman" that bears no relation to the basis of the Examiner's rejection of the claims.

In section 4 of the 9/9/05 Office action, the examiner has shown that applicant's claim language, "base grid" reads on Latter et al.'s inner section of core catcher heat exchanger 20, and "base grid shield wall" reads on inner wall 36. Thus, the device of Latter et al. has the same structure as the elements recited in the claims, and must each inherently function in the same manner to produce the same results as applicant's situation. As to limitations which are considered to be inherent in a reference, note the case law of In re Ludtke, 169 USPQ 563, In re Swinehart, 169 USPQ 226, In re Fitzgerald, 205 USPQ 594, In re Best et al., 195 USPQ 430, and In re Brown, 173 USPQ 685, 688.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5-12, 17-19, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Latter et al. (U.S. 4,442,065).

The reasons are the same as those stated in section 4 of the 9/9/05 Office action, as further clarified in section 2 above, which reasons are herein incorporated.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:30-5:00, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RJP
February 14, 2006

R Palabrica